

DEPARTMENT OF BENEFIT PAYMENTS
744 P Street, Sacramento, CA 95814 (916) 445-2077



September 18, 1975

ALL-COUNTY LETTER NO. 75-196

TO: ALL DISTRICT ATTORNEYS
ALL COUNTY WELFARE DIRECTORS

SUBJECT: PLANS OF COOPERATION

REFERENCE:


Attached is a final draft of the new Plan of Cooperation to be executed between the District Attorney and the Department of Benefit Payments. This draft has been revised to reflect recent amendments to the federal statutes and regulations, as well as changes in our state legislation. Many of the comments received in response to All-County Letter No. 75-170, which transmitted a rough draft of the new Plan, have also been included.

In order for counties to be in conformity with state and federal requirements, and in order to be eligible for federal financial participation, this new Plan must be signed by the District Attorney and returned to the Department of Benefit Payments no later than September 30, 1975. Failure to do this will result in a loss of federal funds for this first fiscal quarter.

Signed Plans should be addressed to:

Department of Benefit Payments
Child Support Office 19-19
744 P Street
Sacramento, CA 95814

Sincerely,


DENNIS O. FLATT
Chief Deputy Director

Attachment

cc: CWDA

OBSOLETE

Superseded by ACL # 77-15

Issued 3-17-77

PLAN OF COOPERATION

I PURPOSE

The following is the Plan of Cooperation between _____ County District Attorney and the California State Department of Benefit Payments, for the coordination of their respective efforts and delineation of responsibilities relating to the program for enforcement of support and determination of paternity. The purpose of this Plan is to establish responsibilities and guidelines for an effective program for the securing of financial support for minor children, including, but not limited to, identification and location of absent parents, determination of paternity of children born out of wedlock, determination of the absent parents' ability to support their minor children, establishment of support obligations, and enforcement of the support obligations.

II CONFIDENTIALITY

The use or disclosure of information concerning applicants and recipients will be limited to courts, law enforcement officials, and other public officials for purposes directly connected with the administration of the state plan for establishing paternity and enforcing child support, including establishing eligibility; determining amounts of assistance; identifying and locating putative or deserting parents; establishing paternity; enforcing support obligations, investigating welfare fraud; and any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of the state plan. No information shall be disclosed to any committee or legislative body which identifies any applicant or recipient of public assistance by name or address.

III ORGANIZATION

THE DEPARTMENT OF BENEFIT PAYMENTS is the single organizational unit whose duty it is to administer, supervise and monitor the state plan for securing child support and determining paternity. The Department is responsible and accountable for the statewide operation of the program and shall take such steps as are provided by law and regulation to ensure that all such functions are being carried out properly, efficiently and effectively.

THE DISTRICT ATTORNEY shall maintain a single organizational unit which shall have responsibility for promptly and effectively enforcing the obligation of parents to support their children and determining paternity in the case of a child born out of wedlock.

THE DISTRICT ATTORNEY may enter into cooperative arrangements with other county departments, upon approval of the Department of Benefit Payments, to carry out the following responsibilities: (1) intake, and activities associated with initial child support case opening, (2) processing of payments and accounting for monies, and (3) formal probation, including post judgment activities such as collecting monies, locating absent parents and enforcing support obligations.

If such a delegation of duties is made, the district attorney shall be responsible and accountable for the execution of such duties within the county, and shall ensure that all such functions are being carried out properly, efficiently and effectively. No functions may be delegated by the district attorney if such functions are to be performed by case-workers who are also performing the assistance payments or social services functions under Title IV-A or XX of the Social Security Act. The Department of Benefit Payments may approve other delegations for a limited period of time to prevent hardships or facilitate the orderly administration of the program.

IV STANDARDS

THE DEPARTMENT OF BENEFIT PAYMENTS shall maintain an organization structure and sufficient staff to administer and supervise all of the functions for which it is responsible under the State Plan.

THE DISTRICT ATTORNEY shall maintain an organizational structure and sufficient staff to provide for the following child support enforcement functions in all cases, regardless of the welfare or non-welfare status: intake and activities associated with initial case opening; establishing the legal obligation to support, including determination of paternity when necessary; identifying and locating the absent parent; activities related to determining an absent parent's ability to provide support; determining an absent parent's support obligation, including methods and terms of payment; administration or supervision of activities related to monitoring payment activities and processing cash flow; enforcing collection of support, including, but not limited to, contempt proceedings, wage assignments, obtaining garnishment orders, attaching real and personal property, criminal prosecution and executing judgments; and necessary investigation activities.

There shall be the following types of staff in sufficient numbers to achieve the standards for an effective program: (1) attorneys or prosecutors to represent the agency in court or administrative proceedings with respect to the establishment and enforcement of orders of paternity and support, and (2) other personnel such as legal, interviewer, investigative, collection, accounting, clerical managers, administrators, para-legal and other supportive staff.

V
RESPONSIBILITIES

THE DEPARTMENT OF BENEFIT PAYMENTS shall have the following responsibilities:

- (1) To ensure that the State Plan is in operation on a statewide basis in accordance with equitable standards that are mandatory throughout the state, and to ensure that the Plan is continuously in operation in all political subdivisions of the state and in all appropriate agencies;
- (2) To develop and utilize methods for informing staff and all appropriate county agencies of state policies, standards, procedures and instructions;
- (3) To ensure that county welfare departments provide all reasonable assistance necessary to permit district attorneys to meet state and federal standards;
- (4) To conduct regular planned examinations and evaluation of operations in local offices by regularly assigned state staff, including regular visits by such staff; and through reports, controls, or other necessary methods;
- (5) To ensure that the State Plan is amended whenever necessary to reflect new or revised federal statutes or regulations; or material change in any phase of state law, organization, policy or state or local agency operation;
- (6) To assist district attorneys in claiming incentive payments and federal matching funds;
- (7) To allocate and distribute incentive payments among jurisdictions as may be required where more than one jurisdiction within the state, or where more than one state, is involved in the enforcement of collection;
- (8) To make available a list of laboratories within the state which perform legally and medically acceptable tests, including blood tests, which tend to identify the father or exclude the alleged father from paternity; and
- (9) To collect medical insurance entitlements for services which have been paid by the Medi-Cal Program, and advise district attorneys of any changes in the availability of medical insurance entitlements by responsible parents.

THE DISTRICT ATTORNEY shall have the following responsibilities when a child is receiving public assistance and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance:

- (1) To utilize appropriate state statutes and legal proceedings in the collection of child support payments, to establish the obligation of support for a child born out of wedlock or deserted by a parent or parents, and to review support obligations periodically and whenever the district attorney

becomes aware of changes in the factors which determine the amount of the support obligation.

(2) To maintain an effective system, with respect to all cases in which the obligation to support and the amount of the obligation have been established, for identifying, within 30 days, those cases in which there is a failure to comply with the support obligation and to contact such delinquent individuals or take such other actions as may be deemed appropriate as soon as possible in order to enforce the obligation and obtain the current support and any arrearages. Such attempts to collect support shall include the implementation of the following procedures as applicable and necessary:

- (a) Contempt proceedings to enforce an existing court order,
- (b) Garnishment proceedings, if the individual can be brought under the jurisdiction of the state courts,
- (c) Proceedings to attach real or personal property if the individual is subject to such procedure,
- (d) Applications to utilize the courts of the United States to effect enforcement of an order for support,
- (e) Applications for collection of the delinquent child support obligation by the Secretary of the Treasury,
- (f) Execution of an agreement with the non-custodial parent for the entry of a judgment for periodic child support payments, and,
- (g) Any other appropriate enforcement procedures.

(3) To undertake efforts which will lead to the legal determination of paternity for a child born out of wedlock. Such efforts shall include the securing of a court order of paternity or the execution of an agreement with the putative father for the entry of a judgment determining paternity, and the investigation and development of evidence through the use of pre-trial depositions, polygraph tests, and blood tests when necessary; except that no polygraph tests shall be administered to any applicant or recipient of public assistance without written notice to the applicant or recipient that such test is not required and without written consent thereto by such applicant or recipient;

(4) To determine whether or not an applicant for or recipient of AFDC has demonstrated good cause for refusal to cooperate in the enforcement of child support or the determination of paternity and to provide written notification to the county welfare department of the findings;

(5) To cease efforts to secure child support or determine paternity where it would be contrary to the best interests of the child;

(6) To delay the investigation and any other actions with respect to the case upon the advice of the county welfare department that a child is being considered for adoption; and to delay such actions until advised that the adoption is no longer under consideration;

(7) To utilize reciprocal arrangements adopted with other states; and to assist other states and counties in locating an absent parent, establishing paternity, or securing support for a child in the other state or county. Such assistance shall include the following:

- (a) When necessary, locate the putative father or absent parent utilizing available sources of location information,
- (b) When necessary, establish paternity or assist the other state in establishing paternity,
- (c) Process and enforce all child support orders referred by another state, whether pursuant to the Uniform Reciprocal Enforcement of Support Act or other legal processes, utilizing the same remedies normally applied to cases from the local jurisdiction,
- (d) Collect any support payments from the absent parent and forward them to the state to whom they are owed, and
- (e) Inform the state which initiated the action of the status of the case periodically and on request.

(8) To refer cases for securing support to the appropriate agency of another state when necessary, and to provide such agency of the other state sufficient information to act on the case, including, but not limited to, the following:

- (a) Whether or not the case involves a recipient of public assistance,
- (b) The amount of the assistance payment, if any,
- (c) Notice of any termination of eligibility for assistance, and
- (d) Any other information as may be requested or required.

(9) To attempt to locate absent parents when their location is unknown. Such location attempts shall include the following:

- (a) Use appropriate local locate sources such as officials and employees administering public assistance, general assistance, medical assistance, food stamps and social services (whether such individuals are employed by the state or a political subdivision), relatives and friends of the absent parent, current or past employers, the local telephone company,

- the U.S. Postal Service, financial references, unions, fraternal organizations, and police, parole and probation records if appropriate;
- (b) Establish working relationships with all appropriate local agencies in order to utilize local locate resources effectively;
 - (c) Use the California Parent Locator Service located in the Department of Justice, in accordance with instructions and guidelines, and in such format, as may be prescribed by that agency;
 - (d) Utilize all appropriate state and local sources within 60 days of referral of the case;
 - (e) Use the California Parent Locator Service to request information from the Federal Parent Locator Service if reasonable and diligent state and local efforts have failed to locate the absent parent; and
 - (f) Use the California Parent Locator Service when requesting other states to undertake location activities.
- (10) To make reasonable efforts to collect amounts assigned pursuant to Welfare and Institutions Code Section 11477; and where such reasonable efforts have failed, to submit a request to the California Attorney General that the case be forwarded to the Treasury Department for collection. Such request shall be submitted only after the local collection mechanisms and all other applicable collection mechanisms have failed to collect the amount of the delinquency and shall be submitted in the form and manner prescribed by the Secretary of Health, Education and Welfare.
- (11) To submit a request to the California Attorney General for permission to utilize a United States District Court to enforce a child support order of a court of competent jurisdiction against an absent parent who is present in another state when the state in which the absent parent has not undertaken to enforce such order against such parent within 60 days of the receipt of the request from the originating state, and when the District Attorney furnishes evidence to demonstrate that utilization of the United States District Court is the only reasonable method of enforcing such order. The request shall be submitted in the form and manner prescribed by the Attorney General.
- (12) To extend services for the collection of child support or the determination of paternity to any individual who makes application for such services, regardless of the welfare or non-welfare status of such individual. The District Attorney may take an assignment of support rights from an individual applying for paternity or child support services who is not a recipient of public assistance, but such an assignment shall not be a condition of receipt of such services.

(13) To establish a case record, which will contain all relevant information pertaining to the case immediately at the time the case is received in his office. Such case record will include all relevant information necessary for the proper and efficient operation of the child support and paternity program, and will include, but not be limited to, the following:

- (a) The referral document from the referring agency, or the application for services in non-referred cases,
- (b) A record of any contacts with applicants or recipients of assistance or any other individuals who have applied for services, the date and reason therefor, and the results of such contact,
- (c) A record of any contacts with the absent parents, the date and reason therefor, and the results of such contact,
- (d) A record of efforts to utilize local and state locate resources and the dates and the results of these efforts,
- (e) A record of the court order and the amount of obligation,
- (f) A record of any actions taken to locate the absent parent, establish paternity, establish and enforce the support obligation,
- (g) A record of communications to and from other local, state and federal agencies involved in administering the child support and paternity program,
- (h) Any other information which may be required, and
- (i) A notation in the case record of the closing of the case, the date thereof, and the reason for taking the action.

(14) To maintain records necessary for the proper and efficient operation of the state plan, including records regarding:

- (a) Applications for child support services in non-AFDC cases,
- (b) Location of absent parents, actions to establish paternity and obtain and enforce child support, and the costs incurred in such actions,
- (c) Amount and sources of child support collections and the distribution of these collections,
- (d) Any other administrative costs,
- (e) Any other information required by the state and federal child support offices, and
- (f) Statistical, fiscal, and other records necessary for reporting and accountability as may be required.

- (15) To supersede all voluntary payment agreements, in any case in which child support payments are collected for a recipient of AFDC with respect to whom an assignment of support rights is effective, with obligations which are established by an order of a court of competent jurisdiction or by an agreement, with the non-custodial parent, upon which a judgment shall be entered, according to the following schedule:
- (a) In the event of a breach of the existing agreement, such agreement shall be superseded as soon as possible,
 - (b) Existing agreements which are not breached shall be superseded to the extent possible on the basis of one-third of the total existing agreements by January 1, 1976, and two-thirds by July 1, 1976. The remainder shall be superseded by January 1, 1977.
 - (c) No voluntary payment agreements will be accepted in these cases after the date of execution of this agreement.
- (16) To enforce the child support obligation, with respect to a family which ceases to receive public assistance, according to the following schedule:
- (a) At the request of the custodial parent the district attorney shall continue to enforce support payments from the non-custodial parent for a period not to exceed three months from the month following the month in which such family ceased to receive assistance and pay all amounts so collected to the family, and
 - (b) At the end of such three-month period, if after written notice to the individual, the district attorney is requested to do so by the individual on whose behalf the enforcement efforts will be made, continue to enforce such support payments from the non-custodial parent.
- (17) To attempt to collect the amount of any unpaid support obligation that has accrued under an assignment made in favor of the county when a family ceases receiving public assistance, and such amounts shall be used to reimburse any amounts which have not been reimbursed.
- (18) To give priority, with respect to efforts made on behalf of a family which has ceased to receive public assistance, to the collection of current support.
- (19) To forward collections made on behalf of a foreign jurisdiction to that jurisdiction for accounting and disbursement as appropriate, and to include a five-digit code identifying the collecting county. Such code shall be as defined in the Federal Information Processing Standards Publication by the National Bureau of Standards.

- (20) To take such actions and utilize such legal remedies as the district attorney may choose to determine the availability of medical insurance entitlements by responsible parents, to take such actions as he may deem appropriate to collect such entitlements as reimbursement for Medi-Cal aid granted, and to forward such collections to the Department of Benefit Payments for accounting and disbursement as appropriate.
- (21) To investigate or refer to the Special Investigative Unit of the county welfare department cases of welfare fraud related to child support. To prosecute such cases at the discretion of the district attorney.
- (22) To supply staff upon request to the county welfare department to participate in training welfare employees.
- (23) To report to the county welfare department on a timely basis information which is necessary to the determination and redetermination of eligibility, the amount of assistance payments, and the continuing administration of the aid payment; and to supply prompt notice of instances of non-cooperation by welfare applicants or recipients.
- (24) To make available to the county welfare department any forms relating to child support or paternity which may be required in addition to the form WR 2.1.
- (25) To compile and maintain statistical information and data, and to submit such information and data to appropriate federal, state and county officials as may be required.
- (26) To make records available for review or audit by authorized federal, state and county officials.

VI

FISCAL ACCOUNTABILITY

THE DEPARTMENT OF BENEFIT PAYMENTS shall maintain an accounting system and supporting fiscal records adequate to assure that claims for federal funds are in accord with applicable federal requirements and shall retain such records as required by federal regulations. The Department shall also develop and have on file with the HEW Regional Office an approved statewide cost allocation plan which identifies and describes the methods and procedures the state has established for properly charging the costs of administration, services and training activities; and which includes descriptions of functions and activities, estimated costs, the basis used for allocating the various pools of costs to programs and activities, and such other information as is necessary to document the cost allocation methods and procedures.

The Department shall also develop instructions, in accordance with applicable state and federal statutes and regulations, for the preparation and submission of cost allocation plans and claims for federal funds, and shall distribute such instructions to appropriate county agencies.

THE DISTRICT ATTORNEY shall maintain an accounting system and supporting fiscal records adequate to assure that claims for federal funds are in accord with applicable federal requirements and shall retain such records as required by federal regulation. The district attorney shall have a countywide cost allocation plan prepared which identifies and describes the methods and procedures the county has established for properly charging the costs of administration, services, and training activities, estimated costs, the basis used for allocating the various pools of costs to programs and activities, and such other information as is necessary to document the cost allocation methods and procedures. The countywide cost allocation plan and claims for federal funds shall be prepared and submitted, and shall contain the information and documentation specified in the instructions promulgated by the Department of Benefit Payments.

VII TRAINING

Reasonable and essential short-term training of law enforcement officials assigned either full or part-time to child support and paternity activities in subjects unique to that functional area shall be undertaken as necessary. The reasonable and essential costs of such training shall qualify for reimbursement.

Dated: _____

District Attorney

Department of Benefit Payments

INTRA-COUNTY PLANS OF COOPERATION

If the District Attorney feels it would be in the best interest of the child support program to delegate specific duties to other county agencies, he may enter into cooperative agreements with such other agencies in order to accomplish this. These sub-agreements will be valid upon approval by the Department of Benefit Payments and will provide the basis for funding to these agencies.

The Department of Benefit Payments will approve intra-county Plans of Cooperation which provide for delegation of the following activities:

- (a) Intake functions and activities associated with initial opening of the child support case, such as securing information regarding the absent parent and completing the WR 2.1 form, may be delegated to the County Welfare Department.
- (b) Collection functions, bookkeeping, and accounting for monies may be delegated to an appropriate county collection agency.
- (c) Supervision of formal probation cases may be delegated to the County Probation Department.

All other activities involved in support enforcement such as investigation, location, working up the case, preparing the case for court and obtaining the court orders are considered specific responsibilities of the District Attorney. They may be delegated for a limited time only where a hardship is demonstrated and the failure to approve such sub-delegations would affect the orderly administration of the program.

The format of these sub-agreements should closely follow the Plan of Cooperation executed between the District Attorney and the Department of Benefit Payments. The responsibilities of each agency should be described with sufficient detail to give a program auditor a clear understanding of the functions being performed by the agencies involved, and the standards for staffing and performance to which these agencies will be held should be specified. The manner in which information is to be handled with regard to confidentiality and who will have access to such information must be described. Finally, any other areas of agreement such as preparation and submission of funding claims, statistical reporting, training and so on, should be stated.

County agencies which enter into intra-county Plans of Cooperation will receive federal matching funds at a rate of 75 percent to offset their costs incurred in behalf of the child support program. Funding will be available as of the date these sub-agreements are approved by the Department of Benefit Payments.